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| EXAMINER | |
|---|---|
| BLAIR, DOUGLAS B | |

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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

| Office Action Summary | Application No. | Applicant(s) | |
|---|---|---|---|
| | 09/925,109 | SWEATT ET AL. | |
| | Examiner | Art Unit | |
| | DOUGLAS B. BLAIR | 2442 | |

*-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --*

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

1)☒ Responsive to communication(s) filed on *22 April 2010*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

4)☒ Claim(s) *1,2,5-16,18-20,35-37,58 and 60-75* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1,2,5-16,18-20,35-37,58 and 60-75* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

**Application Papers**

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date *4/22/2010*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

## DETAILED ACTION

### *Response to Amendment*

The applicant has amended claims 1, 35, 58 and 60 and cancelled claim 3. Claims 1, 2, 5-16, 18-20, 35-37, 58, and 60-75 are currently pending. The amendment to claim 58 has overcome the rejection based on 35 USC section 101 of claim 58.

### *Response to Arguments*

Applicant's arguments filed 4/22/2010 have been fully considered but they are not persuasive.

Before addressing the specific arguments, it is noted that the applicant's amendments are confusing and do not seem to be based on any embodiment within the applicant's specification. New rejections are made based on 35 USC section 112 first and second paragraphs to address these issues.

With respect to Buchbinder the applicant argues that application 09/513,550 does not provide written description support for the portions cited by the Examiner in the rejection from the previous Office Action. The Examiner disagrees. Though the '550 application does not explicitly feature Figure 8A and paragraph 109, cited by the Examiner, the '550 application still does supply written description support. Specifically, page 7, lines 5-35 discuss a personal server which is able to handle many protocols and a network server which is able to handle regular web requests. This disclosure is also enough to satisfy the applicant's newly amended limitation.

As to the arguments against Hsu, the applicant's claims are broad enough multiple users using different instances of the same web server software. For example, Hsu would cover a situation in which one user were accessing via a wireless API an instance of a portal using a first web server instance and another user were accessing via a convention internet connection API using another instance of the web server. The applicant's claims are broad enough to cover such a scenario. The applicant's specification does not explicitly define what hosting different web portals on different web server actually means, leaving to the claims to be interpreted broadly. The claims do not stipulate that the "web servers" are actually different software programs so invoking the same web server program twice would cover the claimed invention.

### *Claim Rejections - 35 USC § 112*

The following is a quotation of the first paragraph of 35 U.S.C. 112:

> The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 1, 2, 5-16, 18-20, 35-37, 58, and 60-75 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

Though the applicant's specification mentions web servers which are capable of handling http requests throughout the applicant's specification, the examiner cannot find any examples of different web servers hosting differing web portals which use differing formats. Considering that

the claims also feature a main server which seems to be performing all of the limitations of the claims, it is unclear how the presently claimed main server and two web servers relate to the servers originally disclosed by the applicant.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1, 2, 5-16, 18-20, 35-37, 58, and 60-75 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Independent claims 1, 35, 58, and 60 all establish three servers in their preambles but then refer to "the server" in the body of the claims. It is unclear as to which server "the server" is now intended to refer to.

### *Claim Rejections - 35 USC § 102*

> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1, 5, 35-37, 58, 60, and 61 are rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Patent Application Publication Number 2002/0078198 by Buchbinder et al.

As to claim 1, Buchbinder teaches a computer-implemented method stored as a computer program on a computer readable medium in the server and executed by a processor in the server for enabling a user at a client device to directly and remotely control a media-based device by way of any one of a plurality of web portals, including a first web portal and a second

web portal, while simultaneously accessing related information, wherein the first and second web portals are web application respectively hosted by first and second web servers (see response to arguments), the method comprising: implementing in the server an Application Program Interface (API) that connects each of the plurality of web portals with at least one database concerning media-based devices, and that fits data retrieved from the at least one database to a format associated with the each of the plurality of web portals **(Figure 8A and paragraph 109)**; at the server, receiving a first request relating to a first media-based device from a first user at a first client device via the first web portal, the first web portal using a first format for exchanging data with the at least one database via the API **(paragraph 109, HTTP via the web browser)**; at the server, receiving a second request relating to a second media-based device from a second user at a second client device via the second web portal, the second web portal using a second format for exchanging data with the at least one database via the API, wherein the second format is different from the first format **(paragraph 109, WAP)**; in response to the first request, initiating at least one API routine to retrieve from the at least one database the data concerning the first media-based device, while the at least one database is in communication with the first media-based device through a first network **(paragraph 110-113)**; and in response to the second request, initiating at least one API routine to retrieve from the at least one database the data concerning the second media-based device, while the at least one database is in communication with the second media-based device through a second network **(paragraph 110-113)**.

As to claim 2, Buchbinder teaches the method of claim 1, further comprising: transmitting to the first user information contained in the retrieved data concerning the first

media-based device **(paragraph 110-113)**; and transmitting to the second user information contained in the retrieved data concerning the second media-based device **(paragraph 110-113)**.

As to claim 5, Buchbinder teaches the method of claim 1, wherein the first request is in HTTP command format **(paragraph 109)**.

As to claim 35, the private network reads on the second network.

As to the rest of the limitations in claims 35-37, 58, 60, and 61, they are rejected by the same embodiment of Buchbinder for the same reasoning.

Claims 1-3, 5, 35-37, 58, 60, and 61 are rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Patent Number 6,374,079 to Hsu.

As to claim 1, Hsu teaches a computer-implemented method stored as a computer program on a computer readable medium in the server and executed by a processor in the server for enabling a user at a client device to directly and remotely control a media-based device by way of any one of a plurality of web portals, including a first web portal and a second web portal, while simultaneously accessing related information, wherein the first and second web portals are web application respectively hosted by first and second web servers (Hsu covers multiple users invoking the same web server software) the method comprising: implementing in the server an Application Program Interface (API) that connects each of the plurality of web portals with at least one database concerning media-based devices, and that fits data retrieved from the at least one database to a format associated with the each of the plurality of web portals **(col. 8, lines 9-24)**; at the server, receiving a first request relating to a first media-based device from a first user at a first client device via the first web portal, the first web portal using a first format for exchanging data with the at least one database via the API **(col. 8, lines 25-42)**; at the

server, receiving a second request relating to a second media-based device from a second user at a second client device via the second web portal, the second web portal using a second format for exchanging data with the at least one database via the API, wherein the second format is different from the first format **(col. 8, lines 25-42)**; in response to the first request, initiating at least one API routine to retrieve from the at least one database the data concerning the first media-based device, while the at least one database is in communication with the first media-based device through a first network **(col. 8, lines 43-59)**; and in response to the second request, initiating at least one API routine to retrieve from the at least one database the data concerning the second media-based device, while the at least one database is in communication with the second media-based device through a second network **(col. 8, lines 43-59)**.

As to claim 2, Hsu teaches the method of claim 1, further comprising: transmitting to the first user information contained in the retrieved data concerning the first media-based device **(col. 8, lines 9-59)**; and transmitting to the second user information contained in the retrieved data concerning the second media-based device **(col. 8, lines 9-59)**.

As to claim 3, Hsu teaches the method of claim 1, wherein each web portal is a web server executing a web hosted application **(server 27)**.

As to claim 5, Hsu teaches the method of claim 1, wherein the first request is in HTTP command format **(remote premise 19 uses http)**.

As to claim 35, reference number 49 in Figure 1 reads on the second network.

As to the rest of the limitations in claims 35-37, 58, 60, and 61, they are rejected by the same embodiment of Hsu for the same reasoning.

Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent Application Publication Number 2002/0078198 by Buchbinder et al. in view of U.S. Patent Application Publication Number 2007/0277201 to Wong et al.

As to claim 6, Buchbinder teaches the method of claim 2 however Buchbinder does not teach the use of XML.

Wong teaches the transmission of data to and from a media device in an XML format. (paragraph 95).

It would have been obvious to one of ordinary skill in the Computer networking art at the time of the invention to combine the teachings of Buchbinder regarding controlling devices via multiple portals with the teachings of Wong regarding the use of XML because Buchbinder suggests controlling the types of devices taught by Wong (See Background of Buchbinder) and the use of XML in the broad context claimed by the applicant would not require substantial modifications of either reference in order to be viable.

Even if the applicant were able to overcome the date of Wong, Official Notice is taken that the use of XML is such a broad context is not novel.

Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent Number 6,374,079 to Hsu in view of U.S. Patent Application Publication Number 2007/0277201 to Wong et al.

As to claim 6, Hsu teaches the method of claim 2 however Hsu does not teach the use of XML.

Wong teaches the transmission of data to and from a media device in an XML format. (paragraph 95).

It would have been obvious to one of ordinary skill in the Computer networking art at the time of the invention to combine the teachings of Hsu regarding controlling devices via multiple portals with the teachings of Wong regarding the use of XML because Hsu suggests controlling devices using an manner (col. 12, lines 4-15) and the use of XML in the broad context claimed by the applicant would not require substantial modifications of either reference in order to be viable.

Even if the applicant were able to overcome the date of Wong, Official Notice is taken that the use of XML is such a broad context is not novel.

Claims 7-10, 14-16, 18-20, 62-65, and 69-75 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent Application Publication Number 2002/0078198 by Buchbinder et al. in view of U.S. Patent Application Publication Number 2001/0046366 to Susskind et al.

Buchbinder teaches the method of claim 1; however Buchbinder does not explicitly teach the claimed DVR functions.

As indicated in the 8/14/2009 office action Susskind teaches the claim elements in question.

It would have been obvious to one of ordinary skill in the Computer networking art at the time of the invention to combine the teachings of Buchbinder regarding controlling devices via multiple portals with the teachings of Susskind because Buchbinder suggests the remote programming of recording devices (Background) and the cited portions of Susskind are a specific implementation of the broader teachings of Buchbinder

Claims 7-10, 14-16, 18-20, 62-65, and 69-75 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent Number 6,374,079 to Hsu in view of U.S. Patent Application Publication Number 2001/0046366 to Susskind et al.

Hsu teaches the method of claim 1; however Hsu does not explicitly teach the claimed DVR functions.

As indicated in the 8/14/2009 office action Susskind teaches the claim elements in question.

It would have been obvious to one of ordinary skill in the Computer networking art at the time of the invention to combine the teachings of Hsu regarding controlling devices via multiple portals with the teachings of Susskind because Hsu suggests the remote programming of entertainment devices (col. 12, lines 4-15) and the cited portions of Susskind are a specific implementation of the broader teachings of Hsu.

Claims 11-13 and 66-68 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent Application Publication Number 2002/0078198 by Buchbinder et al. in view of U.S. Patent Application Publication Number 2001/0046366 by Susskind in further view of U.S. Patent Application Publication Number 2007/0240181 by Eldering et al.

As to claims 11-13, Susskind teaches the method of claim 9 including an electronic program guide; however Susskind does not explicitly teach an electronic programming guide featuring actors, ratings and descriptions.

Eldering teaches an electronic programming guide featuring actors, ratings and descriptions (paragraph 60).

It would have been obvious to one of ordinary skill in the Computer Networking art at the time of the invention to combine the teachings of Susskind regarding the remote control of a media recorder with the teachings of Eldering regarding an electronic programming guide featuring actors, ratings and descriptions because Eldering provides a specific method of implementing concepts otherwise taught by Susskind in a generic manner.

As to claims 66-68 they are rejected for the same reasoning as claims 11-13.

Claims 11-13 and 66-68 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent Number 6,374,079 to Hsu in view of U.S. Patent Application Publication Number 2001/0046366 by Susskind in further view of U.S. Patent Application Publication Number 2007/0240181 by Eldering et al.

As to claims 11-13, Susskind teaches the method of claim 9 including an electronic program guide; however Susskind does not explicitly teach an electronic programming guide featuring actors, ratings and descriptions.

Eldering teaches an electronic programming guide featuring actors, ratings and descriptions (paragraph 60).

It would have been obvious to one of ordinary skill in the Computer Networking art at the time of the invention to combine the teachings of Susskind regarding the remote control of a media recorder with the teachings of Eldering regarding an electronic programming guide featuring actors, ratings and descriptions because Eldering provides a specific method of implementing concepts otherwise taught by Susskind in a generic manner.

As to claims 66-68 they are rejected for the same reasoning as claims 11-13.

***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to DOUGLAS B. BLAIR whose telephone number is (571)272-3893. The examiner can normally be reached on 9:00am-5:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Philip Lee can be reached on (571) 272-3967. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Douglas B Blair/
Primary Examiner, Art Unit 2442